

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of)
)
Petition of SBC Communications Inc.)
for Forbearance of Structural Separation)
Requirements and Request For Relief to)
Provide International Directory Assistance)
Services)

MAR 21 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 97-172

**PETITION OF SBC COMMUNICATIONS INC. FOR
FORBEARANCE FROM SECTION 272 OF THE
FEDERAL TELECOMMUNICATIONS ACT OF 1996**

SBC Communications Inc. ("SBC"), on behalf of Ameritech Illinois d/b/a SBC Illinois, Ameritech Indiana d/b/a SBC Indiana, Ameritech Michigan d/b/a SBC Michigan, Ameritech Ohio d/b/a SBC Ohio, Ameritech Wisconsin d/b/a SBC Wisconsin, Nevada Bell Telephone Company d/b/a SBC Nevada, Pacific Bell Telephone Company d/b/a SBC California, and Southwestern Bell Telephone L.P. ("SBC Telcos"), hereby requests that the Commission forbear from enforcing Section 272 of the Communications Act of 1934, as amended, to permit the SBC Telcos to provide international directory assistance ("IDA") services. Given that the relief sought herein is analogous to relief previously granted to the SBC Telcos for nonlocal directory assistance ("NDA") services, SBC requests expedited treatment of this request.

I. BACKGROUND

In 1999, the Commission forbore from Section 272 of the Act and permitted US West to provide NDA services, pursuant to Section 271(g)(4), without using a separate affiliate.¹ Following the *US West Forbearance Order*, several BOCs, including SBC, filed petitions for forbearance seeking analogous relief.² On April 11, 2000, the Commission approved SBC's

¹ See *Petition of US West Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance, Petition of US West Communications, Inc. for Forbearance*, CC Docket Nos. 97-172 (1999) (US West Forbearance Order).

² *Petition of SBC Communications Inc. For Forbearance From Section 272 of the Federal Telecommunications Act of 1996* (filed Nov. 2, 1999).

petition, concluding that SBC had demonstrated that its provision of NDA services fell within the scope of Section 271(g)(4)³ and that SBC had satisfied the statutory criteria for forbearance.⁴ SBC therefore was permitted to provide NDA services on an integrated basis, subject to compliance with the nondiscrimination requirements of Section 272(c)(1).⁵

While the Commission's order permitted the SBC companies to provide NDA services, the order did not address whether such relief extended to IDA services. On September 6, 2002, the Commission reconsidered its determinations reached in the *US West Forbearance Order*.⁶ Therein, the Commission concluded that the *US West Forbearance Order* was confined to domestic directory assistance services.⁷ Given that the Commission's order granting SBC forbearance relief was modeled on the *US West Forbearance Order*, there is some ambiguity as to whether SBC has the requisite authority to provide IDA on an integrated basis. Thus, out of an abundance of caution, SBC hereby requests forbearance from Section 272 to allow the SBC

³ Section 271(g)(4) provides that a BOC may provide incidental interLATA services where the service "...permits a customer that is located within one LATA to retrieve stored information from ... information storage facilities of such company that are located in another LATA." SBC demonstrated that it owns the information storage facilities it uses to provide NDA services.

⁴ Petition of SBC Communications Inc. For Forbearance From Section 272 of the Federal Telecommunications Act of 1996, Memorandum Opinion and Order, CC Docket No. 97-172 (April 11, 2000). The relief granted did not extend to Nevada Bell because Nevada Bell did not provide NDA services at that time. Nevada Bell subsequently filed a Petition for Forbearance seeking relief from Section 272 in its provision of NDA services on May 24, 2002, which is still pending at the Commission.

⁵ Specifically, SBC was required to do the following: (1) make available to unaffiliated entities all of the directory listing information that they use to provide region wide directory assistance service at the same rates, terms, and conditions they impute to themselves; (2) make changes to their cost allocation manuals to reflect this accounting change; and (3) update and maintain the directory listing information they provide to unaffiliated entities in the same manner they update and maintain directory listing information they use in the provision of nonlocal directory assistance service. To the extent SBC could not make the directory listing information it uses to provide NDA services available to unaffiliated entities, SBC was required to cease using such listing in its provision of NDA services.

⁶ *Petition of US West Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance, Petition of US West Communications, Inc. for Forbearance*, Order on Reconsideration, CC Docket Nos. 97-172 (2002).

⁷ *Id.* ¶15.

Companies to provide IDA without having to comply with the separate affiliate requirements of Section 272.

II. DESCRIPTION OF SBC'S PROVISION OF IDA SERVICES

SBC's provision of IDA services would be an extension of the local and nonlocal directory assistance services it provides today. SBC will offer IDA services via the same SBC-owned information storage facilities it currently uses today to provide NDA services.⁸ Thus, operators from the SBC Telcos would query an SBC-owned information storage facility to provide international directory listings, where available, to customers requesting such listings. Specifically, SBC West and Southwest (formerly Pacific, Nevada and Southwestern Bell Telephone companies) would query an SBC-owned information storage facility located in Rochester, NY, which currently is queried for national listings. SBC Midwest (formerly Ameritech telephone companies) would query its Milwaukee, Wisconsin and Troy, Michigan information storage facilities, which contain national listings. The only difference between SBC's National Directory Assistance Service, which the Commission has authorized, and SBC's proposed International Directory Assistance Service is that the IDA listings would be for international telephone numbers, names, and addresses, instead of U.S. telephone numbers, names, and addresses.

SBC's proposed provision of IDA services would fall squarely within the scope of Section 271(g)(4) because SBC's IDA service would permit a customer that is located in one LATA to retrieve stored information from information storage facilities owned by SBC that are located within another LATA.

While SBC would initially provide IDA services on an integrated basis pursuant to Section 271(g)(4), once SBC receives Section 271 approval to provide interLATA services in all of its in-region states, SBC should be permitted to provide IDA services on an integrated basis

⁸ SBC currently owns more than 10% of the information storage facilities used to provide NDA service, as required by the Commission. *See id.* ¶7.

pursuant to Section 271(d).⁹ This too would be a natural extension of SBC's existing DA services and would meet the criteria for forbearance set forth below. Accordingly, SBC also seeks forbearance from Section 272 to permit the SBC Telcos to provide all nonlocal DA services, including IDA services, on an integrated basis pursuant to Section 271(d) once it obtains Section 271 authority to provide interLATA services in all of its in-region states.

III. FORBEARANCE UNDER SECTION 10

Section 10(a) requires that the Commission forbear from the application of any provision of the Act, if it determines that:

(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

(3) forbearance from applying such provision or regulation is consistent with the public interest.¹⁰

In determining whether forbearance is in the public interest, the Commission will consider whether forbearance will promote competitive market conditions, including the extent to which forbearance will enhance competition among providers of telecommunications services.¹¹ As detailed below, the Commission should forbear from applying the Section 272 separate affiliate requirements to the SBC Companies provision of IDA services.

⁹ Under Section 271(d), the SBC Telcos could provide NDA or IDA services without owning the information storage facilities housing the listings.

¹⁰ 47 U.S.C. §160 (a).

¹¹ 47 U.S.C. §10(b).

A. Enforcement of Section 272 is not Necessary to Ensure that the SBC DA Services are Just and Reasonable and Are not Unjustly or Unreasonably Discriminatory.

In considering this first criterion, the Commission, in the *SBC NDA Order*, found it important that the SBC Telcos were new entrants competing against interexchange carriers, wireless and Internet service providers, and that they did not exercise monopoly power "over the components used to provide the telephone numbers of customers outside their region."¹² Further, the FCC determined that imposition of the Section 272(c)(1) nondiscrimination requirements would ensure that SBC's rates were just and reasonable and not unreasonably discriminatory. In this regard, the Commission required the SBC Telcos to do the following: 1) make available to unaffiliated entities all of the in-region directory assistance listings that they use to provide NDA service at the same rates, terms, and conditions they impute to themselves; 2) make changes to their cost allocation manuals to reflect this accounting change; and 3) update and maintain the directory assistance listing information they provide to unaffiliated entities in the same manner that they update and maintain the directory assistance listing information they use in the provision of NDA services.¹³

The foregoing findings are equally applicable here. SBC would be a new entrant in the market for IDA services and would face vigorous competition for such services from established IDA providers, including AT&T, Sprint, wireless providers and Internet service providers. Such competition would ensure that SBC's rates are just and reasonable. Further, SBC could not exercise monopoly power over the components used to provide international telephone numbers. Rather, SBC would have to obtain these numbers from other entities that compile such listings, just as competitors obtain international listings. Finally, SBC would remain subject to the nondiscrimination requirements of Section 272(c)(1), and accordingly would continue to provide

¹² *SBC NDA Order*, ¶14.

¹³ *Id.*, ¶15.

unaffiliated entities all of the in-region directory assistance listing information it uses to provide NDA at the same rates, terms and conditions SBC imputes to itself. Given the foregoing, enforcement of the Section 272 separate affiliate requirements on the SBC Telcos' provision of IDA services is unnecessary to ensure that SBC's rates are just and reasonable.

B. Enforcement of Section 272 is not Necessary to Protect Consumers

Many consumers want the ability to obtain local, national and international directory assistance listings and associated dialing instructions from one source, as evidenced by the increase in IDA demand from SBC customers. Today, SBC must turn these customers away, often resulting in consumer frustration. The forbearance relief requested herein would permit SBC to provide IDA on an integrated basis, to the extent that reliable international listings are available, thereby meeting consumer demand for one-stop shopping for DA services.

In the *SBC NDA Order*, the Commission concluded that imposition of the Section 272(c)(1) nondiscrimination requirements would promote a fully competitive market for NDA services and ensure that no competitor has an undue advantage in the provision of NDA services.¹⁴ This competition, the Commission concluded, would benefit consumers, rendering enforcement of Section 272 unnecessary.¹⁵

SBC is bound by the nondiscrimination requirements of Section 272(c)(1). Thus, upon grant of the relief requested herein, SBC's competitors can continue to compete with SBC on equal footing with respect to its in-region directory listings.¹⁶ Importantly, SBC has no such potential competitive advantage for IDA services. Like its competitors, SBC must obtain international directory listings from other entities and thus could in no way impede competition

¹⁴ *Id.*, ¶16.

¹⁵ *Id.*

¹⁶ *US West Forbearance Order*, ¶¶ 35, 40.

in the market for IDA services to the detriment of consumers.¹⁷ Further, given that SBC would be a new entrant in the IDA market, SBC would have to compete against established IDA providers with respect to price and quality to the ultimate benefit of consumers. Such competition, the Commission has held, would prove beneficial to consumers.¹⁸ Enforcement of Section 272, therefore, is unnecessary to protect consumers.

C. Forbearance from Section 272 as Described in this Petition is Consistent with the Public Interest.

The forbearance relief requested herein is fully consistent with the public interest. If SBC were required to provide IDA services through a structurally separate affiliate, SBC would incur significant added expenses and inefficiencies. SBC would be required to employ separate personnel, facilities and equipment in operating its IDA services, even though those assets should logically and efficiently be shared with the local and nonlocal directory assistance services. Granting the Section 272 relief requested here would avoid these unnecessary costs, and allow the SBC Telcos to be effective competitors in the market for IDA services. Such efficiencies would result in better service and prices, thereby furthering the public interest.

IV. CONCLUSION

Accordingly, SBC respectfully requests forbearance from Section 272 of the Act so that the SBC Telcos can provide IDA services and associated dialing instructions under the terms and conditions set forth herein.

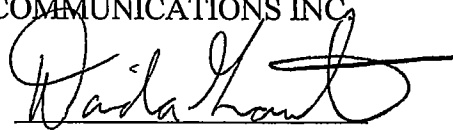
¹⁷ SBC does not interpret the Commission's prior rulings to require SBC to provide unaffiliated entities nondiscriminatory access to its international listings. In the same manner that SBC does not have to provide unaffiliated entities nondiscriminatory access to its out-of region directory listings, SBC should not have to provide such access to its international listings because SBC would not exercise monopoly power over the components used to provide telephone numbers of customers abroad. See *US West Forbearance Order*, ¶ 35.

¹⁸ *Id.*

Respectfully submitted,

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